

AMENDED IN SENATE APRIL 20, 2005

**SENATE BILL**

**No. 136**

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**Introduced by Senator Denham**

February 1, 2005

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An act to amend Section 48204 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

SB 136, as amended, Denham. School attendance requirements.

Existing law, until July 1, 2007, authorizes a school district to allow a pupil whose parent or guardian is employed in the school district to attend a school in the school district through grade 12 if the parent or guardian of the pupil so chooses, as specified.

This bill would instead, until July 1, 2007, authorize a school district to allow a pupil whose parent or guardian is employed in the school district *for a minimum of 20 hours per week* to enroll in a school in the school district ~~in kindergarten or any of grades 1 to 8, inclusive~~, and to continue to attend a school in the school district through grade 12 if the parent or guardian of the pupil so chooses, and if one or both of the parents or guardians of the pupil continues to be employed by an employer situated within the attendance boundaries of the school district. *The bill would also specify that employment does not include performing work as an independent contractor.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 48204 of the Education Code, as added by Section 2 of Chapter 529 of the Statutes of 2003, is amended to read:

48204. (a) Notwithstanding Section 48200, a pupil is deemed to have complied with the residency requirements for school attendance in a school district, if he or she is any of the following:

(1) (A) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(B) An agency placing a pupil in a home or institution described in this paragraph shall provide evidence to the school that the placement or commitment is pursuant to law.

(2) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(3) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

(5) A pupil residing in a state hospital located within the boundaries of that school district.

(b) (1) A school district may deem a pupil ~~who is either enrolled or is seeking enrollment in kindergarten or any of grades 1 to 8, inclusive,~~ as having complied with the residency requirements for attendance in the school district if one or both of the parents or legal guardians of the pupil is employed *for a*

1 *minimum of 20 hours per week* within the boundaries of that  
2 school district.

3 ~~(1)~~

4 (2) (A) This subdivision does not require the school district  
5 within which the parents or guardians of a pupil are employed to  
6 admit the pupil to its schools. A school district shall not,  
7 however, refuse to admit a pupil under this subdivision on the  
8 basis, except as expressly provided in this subdivision, of race,  
9 ethnicity, sex, parental income, scholastic achievement, or any  
10 other arbitrary consideration.

11 ~~(2)~~

12 (B) The school district in which the residency of either the  
13 parents or guardians of the pupil is established, or the school  
14 district to which the pupil is to be transferred under this  
15 subdivision, may prohibit the transfer of the pupil under this  
16 subdivision if the governing board of the school district  
17 determines that the transfer would negatively impact the  
18 court-ordered or voluntary desegregation plan of the school  
19 district.

20 ~~(3)~~

21 (C) The school district to which the pupil is to be transferred  
22 under this subdivision may prohibit the transfer of the pupil if the  
23 school district determines that the additional cost of educating the  
24 pupil would exceed the amount of additional state aid received as  
25 a result of the transfer.

26 ~~(4)~~

27 (D) The governing board of a school district that prohibits the  
28 transfer of a pupil pursuant to ~~paragraph (1), (2), or (3)~~  
29 *subparagraph (A), (B), or (C)* is encouraged to identify, and  
30 communicate in writing to the parents or guardians of the pupil,  
31 the specific reasons for that determination, and is encouraged to  
32 ensure that the determination, and the specific reasons therefor,  
33 are accurately recorded in the minutes of the board meeting in  
34 which the determination was made.

35 ~~(5)~~

36 (E) The average daily attendance for pupils admitted pursuant  
37 to this subdivision is calculated pursuant to Section 46607.

38 ~~(6)~~

39 (F) Unless approved by the sending school district, this  
40 subdivision does not authorize a net transfer of pupils out of a

1 school district, calculated as the difference between the number  
2 of pupils exiting the school district and the number of pupils  
3 entering the school district, in a fiscal year in excess of the  
4 following amounts:

5 ~~(A)–~~

6 (i) For a school district with an average daily attendance for  
7 that fiscal year of less than 501, 5 percent of the average daily  
8 attendance of the school district.

9 ~~(B)–~~

10 (ii) For a school district with an average daily attendance for  
11 that fiscal year of 501 or more, but less than 2,501, 3 percent of  
12 the average daily attendance of the school district or 25 pupils,  
13 whichever amount is greater.

14 ~~(C)–~~

15 (iii) For a school district with an average daily attendance of  
16 2,501 or more, 1 percent of the average daily attendance of the  
17 school district or 75 pupils, whichever amount is greater.

18 ~~(7)–~~

19 (G) Once a pupil is deemed to have complied with the  
20 residency requirements for school attendance pursuant to this  
21 subdivision and is enrolled in a school in a school district whose  
22 boundaries include the location where one or both parents of a  
23 pupil is employed, or where the legal guardian of the pupil is  
24 employed, the pupil does not have to reapply in the next school  
25 year to attend a school within that school district and the school  
26 district governing board shall allow the pupil to attend school  
27 through grade 12 in that school district if the parent or guardian  
28 so chooses and if one or both of the parents or guardians of the  
29 pupil continues to be employed by an employer situated within  
30 the attendance boundaries of the school district, subject to  
31 paragraphs (1) to (6) subparagraphs (A) to (F), inclusive.

32 (3) *For purposes of this subdivision, employment does not*  
33 *include performing work as an independent contractor.*

34 (c) This section is inoperative on and after July 1, 2007, and as  
35 of January 1, 2008, is repealed, unless a later enacted statute, that  
36 becomes operative on or before January 1, 2008, deletes or  
37 extends the dates on which it becomes inoperative and is  
38 repealed.

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